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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed February 7, 2006. In the Office Action, the Examiner notes that claims 1-9 are pending of which claims 1-3 are withdrawn from consideration, claims 4-6, 8 and 9 are rejected, and claim 7 is objected to. By this response, ??? No new matter has been entered.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant responsive amendments.

ELECTION/RESTRICTION

Applicants affirm the provisional election of the claims of Group II, claims 4-9.

OBJECTIONS

IN THE SPECIFICATION

The Examiner has objected to the Cross-Reference of Related Application. Applicants have amended the specification as suggested by the Examiner and, as such, respectfully request that the Examiner's objection be withdrawn.

IN THE CLAIMS

The Examiner has objected to claims 7 and 9 for various informalities. Applicants have amended claims 7 and 9 as suggested by the Examiner and, as such, respectfully request that the Examiner's objections be withdrawn.

REJECTIONS

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35 U.S.C. §112

The Examiner has rejected claim 9 under 35 U.S.C. §112, ¶1, as failing to comply with the written description requirement. Applicants respectfully traverse the Examiner's rejection.

Referring to, for example, of the the paragraph beginning at page 14, column 19 of the instant application, it is stated that:

"Turning to Figure 6, at step 602, the user requests VOD by way of the corresponding subscriber station. At step 604, the subscriber station reads the Program Map Table (PMT) and at step 604 receives the periodic transmission of the Logical Node ID. At step 608, the IP address of the SCM, which is stored in the subscriber station and its listener port number are used to make a User Datagram Protocol (UDP or TCP - Transmission Control Protocol) connection between the SEM and the subscriber station. At step 610, the program transmission occurs until termination at step 612."

The above-described connection or session may be either a UDP or TCP connection or session. Thus, the applicants respectfully request that the examiner's rejection of claim 9 under 35 U.S.C. §112, ¶1 be withdrawn.

35 U.S.C. §102

The Examiner has rejected claims 4, 5, 8 and 9 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,295,298 B1 to Hrastar et al. ("Hrastar"). Applicants respectfully traverse the rejection.

Hrastar is specifically adapted to an asymmetrical network in which a high-bandwidth downlink (a CATV system) provides Internet information to subscribers, while a low-bandwidth uplink (a PSTN system) requests Internet information. The applicants note that even though the cited reference may use some language that superficially seems to apply to the claimed invention, the arrangement of the cited reference and the claimed invention are extremely different. The applicants respectfully submit that the examiner has mischaracterized the cited reference and inappropriately equated portions of the cited reference with elements of the claimed invention. Several examples will now be discussed.

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The reference fails to teach or suggest at least the "intermediate node" as claimed. Specifically, the examiner contends that the "intermediate node" is taught by the modem pool 135 of the reference. The applicants strongly disagree with this characterization.

Referring to figure 1, it is clearly seen that the modem pool 135 is a portion of the CATV head end 122. That is, the claimed "intermediate node" is just that, a node that is distinct from, and intermediate to, the head end and the subscriber. In stark contrast, the modem pool 135 is not a node, is clearly a portion of the head end 122, and simply cannot be construed in any reasonable way to be intermediate to the head end and the subscriber.

Moreover, the functionality associated with the modem pool 135 is not the same with the functionality of the claimed intermediate node. Modems within the modem pool 135 are adapted to communicate only with the low-bandwidth network; namely, the PSTN 109. The modems of the modem pool 135 operate to receive, at the head end, IP addresses associated with desired data. The modems of the modem pool 135 then communicate to the subscribers (via the PSTN) the high-bandwidth pipe frequency that will include the information associated with an IP address.

The examiner contends that the claimed "first identification information from the head end... for routing communication to the head end" is taught by the "DCHP responds with vendor data 715 and 717." This is incorrect. Referring to column 18, lines 43-47, it is stated that:-

"Telephone modem pool 135 forwards the DHCP response packet to RF modem 106 (i)(717) and RF modem 106(i) set its tuner 501 to listen on the specified frequency and it's decoder 503 to read super packets on the specified pipe when they have the RF modem's link ID."

The above-quoted portion of the reference clearly shows that the DHCP response alluded to by the examiner *is not* directed to "routing communication to the head end." Rather, the DHCP response is directed to routing communications to the subscriber PC. In operation, a specific frequency in the high-bandwidth downlink (i.e., the CATV pipe) is

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used to convey requested data to a subscriber. The DHCP response packet lets the subscriber equipment know which pipe frequency includes the requested data. The subscriber's tuner 501 processes that frequency to retrieve a modulated data stream which is then processed by the decoder 503 to retrieve packets conveying the data. This is entirely different than the claimed invention.

The examiner contends that the claimed "second identification information for routing communication" is met by the ACK signal sent by subscriber modem 106 to the communications manager 102 in the CATV head end 122. This is incorrect. The ACK signal, irrespective of its source, is not identification information (first, second or otherwise). The ACK signal merely acknowledges that information has been received. There is no identification component to the ACK signal. As noted in column 18, lines 5962, it is stated that:

"In other embodiments, RF modem 106(i) may farther respond to the DHCP offer packet 715 by sending an acknowledgment IP packet [(the ACK signal)] via a PSTN 109 and modem pool 135 to communications manager 102 (719)."

The above-mentioned acknowledgment IP packet or ACK signal simply does not teach or suggest the claimed element.

In summary, the cited reference fails to disclose or suggest the above discussed claim element, as well as other claim element. Thus, the Hrastar reference fails to disclose each and every element of the claimed invention, as arranged in Applicants' independent Claim 4.

As such, claim 4 is not anticipated by Hrastar and is patentable under 35 U.S.C. §102. Moreover, claims 5, 8 and 9 depend, either directly or indirectly, from independent claim 4 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, these dependent claims are also not anticipated by Hrastar and are patentable under 35 U.S.C. §102.

35 U.S.C. §103

Claim 6

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The Examiner has rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Hrastar in view of U.S. Patent No. 5,671,217 A to Adams et al. ("Adams"). Applicants respectfully traverse the rejection.

Claim 6 depends indirectly from claim 4 and inherits the patentable subject matter of claim 4, while adding additional elements. For at least the reasons discussed above in Applicants' response to the Examiner's §102 rejection, Hrastar fails to teach or suggest Applicants' invention as a whole.

The Adams reference fails to bridge the substantial gap between Hrastar and Applicants' invention. In particular, Adams discloses a scalable communications network employing shared logical nodes. Adams does not teach or suggest the invention of claims 4 or 6.

The examiner states that "it may not be clear from figure 1 of a Hrastar that at least the modem pool 135 is associated with a logical node." Applicants contend that it is quite clear that the modem pool 135 is simply not associated with a logical node or a physical node. This is because, among other things, the modem pool 135 is part of the head end 122.

The applicants note that the claimed invention is not simply the use of a logical node. The claimed invention positively recites an "intermediate node" in addition to other functionality and connectivity associated therewith. Since the modem pool 135 does not operate as a node, let alone an intermediate node (logical or otherwise), the teachings of the Adams reference cannot possibly bridge the gap between the Hrastar reference and the claimed invention.

As such, claim 4 and claim 6 which depends indirectly from claim 4 are patentable under 35 U.S.C. §103(a) over Hrastar and Adams. Therefore, Applicants respectfully request that the rejection be withdrawn.

ALLOWABLE SUBJECT MATTER

The Examiner states that claim 7 would be allowable if rewritten to overcome the claim objection in the Office Action and to include all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for indicating the allowable subject matter with respect to claim 7. Claim 7 has been amended to overcome the

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Examiner's claim objection. However, in view of the arguments set forth, herein, Applicants believe that base claim 4 (and all intervening claims) is in allowable form and, as such, dependent claim 7, as it stands, is therefore in allowable condition. Accordingly, Applicants respectfully request that the foregoing objection to claim 7 be withdrawn.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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CONCLUSION

Thus, Applicants submit that none of the claims, presently in the application, are allowable. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 7/7/06

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